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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... OREGON

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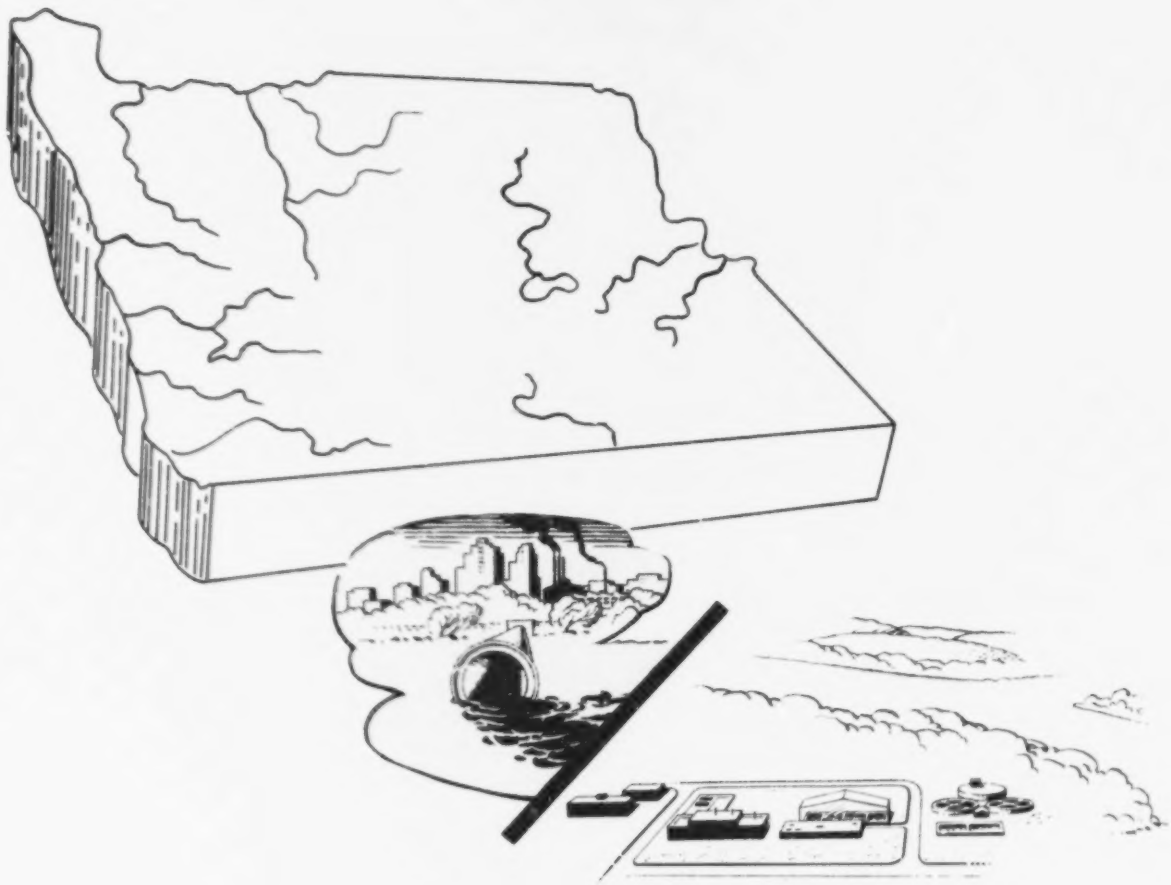

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF OREGON WATER POLLUTION CONTROL LEGISIATION

I. GENERAL STATEMENT

The Sanitary Authority, a Division within the State Board of Health, has the responsibility of controlling water pollution (Sec. 449.030). 1/

The State Board of Health also exercises some functions relating to water pollution. These relate primarily to the control of domestic water supplies and sewage disposal affecting such supplies (Secs. 449.205-449.250). The Board makes periodic examinations of the sources of water supplies to ascertain their adaptability for domestic purposes; approves plans for new or extensions of existing water systems, and plans and specifications for sewer systems (Secs. 449.215, 449.220, 449.245).

The Governing Board of the State Department of Geology and Mineral Industries is authorized to make rules and regulations for, among other things, the prevention of pollution of fresh water supplies by oil, gas or salt water (Sec. 520.095(1)).

The State Water Resources Board, consisting of seven members, appointed by the Governor, with the approval of the Senate, is authorized to formulate a State water resources policy. The law specifies that pollution abatement, among other things, is one of the beneficial uses of water (Secs. 536,230, 536.300).

In formulating the State water resources program, the Board is to consider, in addition to other things, the following declarations of policy; namely, that maintenance of minimum perennial streamflow sufficient to support aquatic life and to minimize pollution is to be fostered and encouraged if existing rights and priorities under existing laws will permit, and that due regard is to be given in the planning and development

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1/ Citations in this digest refer to Oregon Revised Statutes, (1953 Ed.-Loose-Leaf), including the 1955 Replacement Parts, unless otherwise indicated.

of water recreation facilities to safeguard against pollution (Sec. 536.310 (7)(9)).

II. ADMINISTRATIVE ORGANIZATION

Sanitary Authority

1. Composition and organization

The Authority, which is created as a Division within the State Board of Health, is composed of six members, namely, the State Health Officer, the State Engineer, the Chairman of the State Fish Commission, and three members appointed by the Governor, not more than one from any single Congressional District. Appointed members serve for four years. The State Board of Health appoints a State Sanitary Engineer who serves as Secretary of the Authority (Secs. 449.015, 449.020, 449.025).

2. Powers and duties

a) Setting standards of water purity

The Authority is empowered to establish standards of the purity for the various waters of the State (Sec. 449.030(3)).

b) Review of plans and specifications

Plans and specifications for the construction of sewerage and waste collection and disposal systems, and sewage treatment plants must be approved by the Authority before construction thereof is commenced. All construction must be in accordance with the plans and specifications approved by the Authority (Laws of Oregon, 1957, Ch. 192).

c) Enforcement

The Authority is empowered to have proceedings instituted to abate alleged public nuisances created by water pollution. The Attorney General, any district attorney of any county or the city attorney of any municipality brings the action at the request of the Authority (Sec. 449.050).

When it appears that the immediate enforcement of an order of the Authority, based upon findings of fact in any public hearing, research or investigation conducted by it, would substantially interfere with the sewage disposal system of any municipality, person, or firm, to the extent of stoppage of sewage disposal or industrial operation to the damage thereof, the Authority, upon written stipulation with the parties, may grant sufficient time, to permit the offender to comply with the order. If the order is not fully carried out within the time specified in the stipulation or order, and if the Authority finds that the other party at interest is not proceeding in good faith to carry out the terms of the stipulation or order, it is authorized to proceed to enforce the law and its order by proceedings to abate a nuisance (Sec. 449.055).

The Authority is given the power to intervene in abatement suits relating to the pollution of waters, which are instituted by other parties (Sec. 449.060).

Anyone aggrieved by an order of the Authority, other than an order in which a stipulation was made, may appeal from such order to the Circuit Court of the county in which all or any part of the property affected by the order is situated or petition for rehearing. The appeal is determined in a summary manner as a suit in equity. The taking of an appeal suspends the order of the Authority until a decree is finally entered upon the appeal (Sec. 449.065).

d) Conduct of studies, investigations and research

The Authority is authorized to conduct studies, investigations, research and programs pertaining to the purity of waters or to the treatment and disposal of sewage or other wastes which may be causes of pollution (Sec. 449.030(4)).

e) Cooperation with other public and private agencies

The Authority may cooperate with and receive moneys from the Federal Government, from the State or its agencies and departments and from any industrial or other source (Sec. 449.035).

f) Administrative powers

The Authority is authorized to hold hearings, summon witnesses, take testimony, issue orders, formulate rules and regulations, publish findings and recommendations relative to public policies and procedure necessary for the correction of violations of any of the pollution laws, and enforce its rules, regulations or orders promulgated as the result of hearings (Sec. 449.030). It represents the State in any proceedings and all matters pertaining to plans, procedure or interstate compacts in relation to control of water pollution. It determines the priority of pollution control projects as may be necessary under the terms of statutes enacted by the Congress of the United States (Sec. 449.045).

3. Statement of policy

It is the policy of the State to preserve the natural purity of the waters of all rivers, streams, lakes, watersheds and the coastal areas of the State in the interest of the public welfare, for the protection and conservation of the public health and recreational enjoyment of the people and for the protection and conservation of fish, aquatic life and migratory birds; to foster and encourage the cooperation of the people, of industries, of incorporated cities and of towns and counties, in prevention and controlling the pollution of those waters (Sec. 449.005).

The discharge into the waters of the State of any sewage or other waste detrimental to human or aquatic life, or the recreational enjoyment of the people, by any person, firm, association or corporation, whether public

municipal or private, or by any state-owned institution or industry, is declared to be not a reasonable or natural use of such waters, and against the public policy of the State (Sec. 449.010).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone:

To put the carcass of a dead animal or other putrid or deleterious substance into any body of water which is or may be used for domestic purposes or to which domestic stock has access (Sec. 449.105).

To permit to be put, or put any sawdust, lumber waste, wood pulp, chemical waste, slaughterhouse refuse or other substances destructive of fish life into any waters (Sec. 449.110).

To put into any river, stream, lake or other body of water any dead animal, manure, sewage, other deleterious substance, or other matter which either by itself or in connection with any other substance injures fish or corrupts or impairs the quality of such waters for domestic or municipal purposes (Sec. 449.115).

To bathe in any irrigation canal, ditch or flume which supplies water for household purposes, except for wading done in connection with the operation, maintenance, construction, distribution or measurement of water (Sec. 449.120).

To establish a burying ground or cemetery on the watershed of any public water supply nearer than 500 yards to the source of supply (Sec. 449.125).

To discharge sewage or waste water above the intake into any drain, brook, creek or river from which a public drinking water supply is taken, unless it has been passed through some well known system of sewage purification approved by the State Board of Health (Sec. 449.130).

All schools, hamlets, villages, towns or industrial settlements not provided with a sewage system which are located on the shed of any public water supply, must provide and maintain a reasonable system approved by the State Board of Health for collecting and disposing of all accumulations of human excrement within their respective jurisdiction or control (Sec. 449. 135).

It is unlawful for anyone to pollute the waters of certain designated areas and rivers (Secs. 449.505-449.580).

No one is permitted to throw or cast in any State waters or waters over which it has concurrent jurisdiction in which there are game fish, any lime, drug, powder, medicated bait, gas or cocculus indicus or any other substances deleterious to fish, or cause to be exploded in any such waters any substance whatever for the purpose of taking or killing any game fish. This section does not apply to anyone who has first obtained an order of the Game Commission permitting such acts. Violation is a misdemeanor carrying a fine and/or imprisonment (Secs. 498.545, 498.996).

It is unlawful to discharge ballast from any vessel into the navigable channels of any bays, harbors or rivers of the State, or within the jurisdiction of the State, so as to injuriously affect such channels or to obstruct navigation thereof. Violation is punishable by a fine or imprisonment (Secs. 783.600, 783.990(8)).

It is unlawful for anyone to place or throw into the waters of the State any lime, drug, powder, gas or other deleterious substances detrimental to fish, except upon a permit obtained from the Fish Commissioner (Secs. 509.130-509.140).

The following activities are prohibited if located so near sources of public water supply, places where such water is stored, or conduits for such water, as to endanger its purity: maintenance of slaughter pens, stock feeding yards or hogpens; depositing unclean substances, conducting a business or occupation which would pollute such waters (Sec. 449.320).

No one is permitted to place within any watershed from which any city, municipal corporation of the State, or any adjoining State obtains its water supply, any substances which either by itself or in connection with other matter will corrupt, pollute or impair the quality of the water supply (Sec. 449.325).

IV. INTERSTATE COMPACTS

Oregon is a party to the Klamath River Basin Compact, relating to the comprehensive development, use, conservation and control of the waters of the Klamath River Basin (Laws of Oregon, 1957, Ch. 142).

The State Water Resources Board or any member designated to represent it, must be ex officio, a party on behalf of and represent the State in the formulation, entering into and carrying out of any formal or informal compact or other agreement authorized by the Legislative Assembly concerning the use and control of the water resources of the State, between the State or any State agency or public corporation thereof and any other State, any State agency or public corporation thereof or the Federal Government or any agency thereof (Sec. 536.420).